Unlike natural calamities that are beyond human control, avoidable disasters resulting from human error/ negligence prove more tragic and completely imbalance the inter-generational equity and cause irretrievable damage to the health and environment of the society for generations to come. Such tragedy may occur from pure negligence, contributory negligence or even failure to take necessary proactive steps and cautions in carrying on certain essential activities.

More often than not, the affected parties have to face avoidable damage and adversity that results from such manmade disasters. The magnitude and extent of adverse impact on the financial soundness, social health and upbringing of younger generation, including progenies, may have been beyond human expectations. Whatever retards economic equality is a social evil which has to be checked, if not cured. Scarcity and non-availability of essential commodities belongs to this class.

Since development of a country is mainly facilitated by the resilience and dynamism of its Legislations and the efficiency in their implementation, it is indeed *sine quo*, as in recent times, that sluggishness of the executive, menace of bribery and of corruption must be curbed for reaping the benefits of the essential commodity law, achievement of Constitutional goal of distributive justice and balanced equitable national development.

India is an incredibly diverse and fascinating country, the birthplace of some of the world’s most ancient cultures. The vast majority of Indian people (70
per cent) still lives in rural areas and depend on agriculture for their livelihood (65 per cent). India has made impressive progress in overcoming the threat of famine that plagued its history and overshadowed the early years of independence. The 1943 West Bengal famine, which killed more than 3 million people, was India's last and largest famine although India also faced serious shortages of foodstuffs as well as other essential commodities in the first few decades of independence.1

According to Adam Smith "No society can surely be flourishing and happy, of which the far greater part of the members are poor and miserable"2

Poverty is widespread in India, with the nation estimated to have a third of the world's poor. According to a 2005 World Bank estimate, 41.6% of the total Indian population falls below the international poverty line of US$ 1.25 a day (PPP, in nominal terms INR 21.6 a day in urban areas and INR 14.3 in rural areas).3

According to 2010 data from the United Nations Development Programme, an estimated 37.2% of Indians live below the country's national poverty line.4 A recent report by the Oxford Poverty and Human Development Initiative (OPHI) states that 8 Indian states have more poor than 26 poorest African nations combined which totals to more than 410 million poor in the poorest African countries.5

According to a new UN Millennium Development Goals Report, as many as 320 million people in India and China are expected to come out of extreme poverty in the next four years, while India's poverty rate is projected to drop to

1 WFP, 2001, ENABLING DEVELOPMENT: FOOD ASSISTANCE IN SOUTH ASIA, p. 61.
3 "NEW GLOBAL POVERTY ESTIMATES — WHAT IT MEANS FOR INDIA". WORLD BANK.
5 "8 INDIAN STATES HAVE MORE POOR THAN 26 POOREST AFRICAN NATIONS". THE TIMES OF INDIA. 2010-07-12.; 'MORE POOR'IN INDIA THAN AFRICA". BBC NEWS. 2010-07-13.
22% in 2015. The report also indicates that in Southern Asia, however, only India, where the poverty rate is projected to fall from 51% in 1990 to about 22% in 2015, is on track to cut poverty in half by the 2015 target date.6

The latest UNICEF data shows that one in three malnourished children worldwide are found in India, whilst 42 percent of the nation's children below five years of age are underweight. It also shows that a total of 58 percent of children below five surveyed were stunted.

The 2011 Global Hunger Index (GHI) Report places India amongst the three countries where the GHI between 1996 and 2011 went up from 22.9 to 23.7, while 78 out of the 81 developing countries studied.7

There has been no uniform measure of poverty in India.8 The Planning Commission of India has accepted the Tendulkar Committee report which says that 37% of people in India live below the poverty line (BPL).9

A study by the Oxford Poverty and Human Development Initiative using a Multi-dimensional Poverty Index (MPI) found that there were 650 million people (53.7% of population) living in poverty in India, of which 340 million people (28.6% of the population) were living in severe poverty, and that a further 198

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6 INDIA’S POVERTY WILL FALL FROM 51% TO 22% BY 2015: UN Report, TIMES OF INDIA, indiatimes.com, 2011-07-08.
7 "2011 GLOBAL HUNGER INDEX REPORT". INTERNATIONAL FOOD POLICY RESEARCH INSTITUTE (IFPRI).
9 The Planning Commission has accepted the Tendulkar Committee report which holds 37 per cent of people in India below the poverty line, an increase of 10 per cent. After the severe criticism of the draft legislation on the right to food, the Planning Commission was asked by the EGcM to specify how many in India were poor. The Commission had a choice to either accept or reject the report of the Tendulkar committee. India has a new way of defining poverty which is not based on just access to food, but also includes expenditure on health and education. The Tendulkar report will seriously impact the architecture of the right to food bill. But activists on the ground are already calling it an underestimation of poverty. Two other reports had pegged poverty at higher levels. The Arjun Sengupta report had said 77 per cent of Indians live on less than Rs 20 a day while the N C Saxena Committee report had said 50 per cent of people live below poverty. However, the Tendulkar report with a figure of at 37 per cent, is perhaps more acceptable to the government. "It's official: 37 pc live below poverty line". Ibnlive.in.com. Retrieved 2011-10-16
million people (16.4% of the population) were vulnerable to poverty.10 421 million of the poor are concentrated in eight North Indian and East Indian states of Bihar, Chattisgarh, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh and West Bengal. This number is higher than the 410 million poor living in the 26 poorest African nations.11 The states are listed below in increasing order of poverty based on the Multi-dimensional Poverty Index.12

According to FAO13, India is home to the largest share of the world’s undernourished population, and more than 200 million Indian children, women and men eat less than the daily minimum calorie requirement. Official Indian statistics suggest that this situation may be even worse, with more than half (53 per cent) of the population estimated to be undernourished in the Government’s own report on progress towards achieving the MDGs.14 It is estimated that the poorest 30 per cent of households eat less than 1,700 kilocalories per day per person (well below the international minimum standard of 2,100 kilocalories per day) even if they spend 70 per cent of their income on food.15

The increasing “casualization” and insecurity of labour contracts, including serious concerns regarding workers on tea plantations across India is also a major concern.16

Scheduled castes and tribes suffer most from hunger and malnutrition, making up 25 per cent of the rural population but 42 per cent of the poor. As a result of discrimination, many low-caste Dalits are expected to work as

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10 "COUNTRY BRIEFING: INDIA, MULTIDIMENSIONAL POVERTY INDEX (MPI) AT A GLANCE". OXFORD POVERTY AND HUMAN DEVELOPMENT INITIATIVE.
11 "8 INDIAN STATES HAVE MORE POOR THAN 26 POOREST AFRICAN NATIONS". TIMES OF INDIA. July 12, 2010.
16 ACTIONAID, TEABREAK http://www.actionaid.org.uk/wps/content/documents/teabreakreport.pdf.
agricultural labourers without being paid, many held in debt bondage by their higher-caste employers. Widespread discrimination prevents Dalits from owning land, as they are seen as the "worker class", and even if they receive land (as a result of redistribution and agrarian reform programmes in some states), such land is frequently taken by force by higher-caste people in the area. 17

Women and children, particularly girl children also, tend to suffer disproportionately from hunger and malnutrition as a result of discrimination. Women are particularly vulnerable as a result of social customs that women should eat last and eat least.

Child labour persists and in urban areas the hungry and malnourished are predominantly people surviving in the informal sector as well as vulnerable groups that are excluded from access to public services and food ration cards such as migrants, refugees, the homeless, the displaced, informal slum dwellers and street children. 18 The sick and elderly, who have no family members to support them, are also extremely vulnerable.

Odisha has been one of the poorest states among the 15 major States in India. It shows the highest incidence of poverty at 46.6 per cent in 2004-05, among the major states in the country.

The incidence of poverty has hardly changed in the State. The overall percentage of poor has dropped by merely 2 percentage points from 48.6 per cent in 1993-94 to 46.6 per cent in 2004-05. Percentage of rural poor has dropped 2.9 percentage points from 49.7 per cent in 1993-94 to 46.8 per cent in 2004-05.

18 HUMAN POVERTY AND SOCIALLY DISADVANTAGED GROUPS IN INDIA, UNDP discussion paper 18, 2007 and HUMAN DEVELOPMENT AND HUMAN POVERTY ACROSS SOCIAL GROUPS: AN UPDATE, UNDP Discussion Paper (mimeo) 2010
Thus, poverty has remained virtually invariant over an 11-year period despite the fact that per capita income of the state has increased by 48 per cent during this period. The elasticity of poverty with respect to per capita income is as low as 0.084 which indicates very little percolation of growth to the poor in the state. This unfortunate development is surprising since realization of faster poverty reduction has been a main argument for higher growth itself. In fact, incidence of poverty has recorded a downward trend since mid-1970s at the all-India level.\textsuperscript{19}

Increasing urbanization is closely linked to poverty and availability of essential commodities at fair price.

The Special Rapporteur has concluded that the adequate availability of essential commodities at fair price entails:

"the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient foodstuffs (essential commodities) corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear."\textsuperscript{20}

Multiplied to the pathetic situation of the poor people is the serious menace/ allegations of adulteration, blackmarketing, corruption, bribery, etc. resulting in "..siphoning off of public funds to the tune of thirty one thousand crores."\textsuperscript{21} and also, "..instead of supply to needy consumers and the intended

\textsuperscript{19} GOO (2008), \textit{ECONOMIC SURVEY 2007-08}, DEPARTMENT OF ECONOMICS AND STATISTICS.
\textsuperscript{20} A/HRC/7/5, (para 17).
\textsuperscript{21} \textit{U.P. Roller Flour Mills Association \& Ors. v. Govt. of India \& Ors. AIR 2008 SC 130}
beneficiaries foodstuffs and other essential commodities are being diverted to the open market.\textsuperscript{22}

1.1. \textbf{Constitutional Mandate}

Drafters of the Indian Constitution envisioned the socialistic pattern of Indian society and deliberately mandated that the control over the production, supply and distribution, etc., of commodities essential for the sustenance of life of the people shall be one of the prime functions of the Government.

As enshrined in Article 39(b) & (c), under the \textit{"Directive Principles of State policy"} of the Constitution of India, it shall be the fundamental duty of every government to endeavour for ensuring smooth flow of essential commodities to the various regions and their availability at fair and reasonable price to the general public in order to achieve the Constitutional goal of distributive justice, equality, public welfare and to check and prevent any kind of illegal activity and economic excesses.

Provision for subsidies, for certain sections of the public, as necessary corollary for such equitable distribution and sustainable growth of the Country has been made since majority of the population is not able to avail the essential commodities at competitive prices.

1.2. \textbf{Existing Mechanism}

As per the existing mechanism Government of India is empowered to exercise control over the production, supply and distribution, etc., of the essential commodities by virtue of the Essential Commodities Act, 1955,\textsuperscript{23} which has been

\textsuperscript{22} \textit{Ibid}
\textsuperscript{23} Act 10 of 1955
enacted for the purpose giving inherent overriding authority to ensure smooth supply and availability at fair price of such commodities.

It also provides for wide ranging powers like executive autonomy, provisions for prosecution and penalties for any kind of offences under the Act.

Deriving powers from the Essential Commodities Act, the Central Government, State Governments and Union Territory Administrations control the production, supply and distribution, etc., through issue of control orders, licensing orders, circulars and notifications, etc., from time to time through various departments respectively.

A regulated network for procurement/ production, supply and distribution, etc., of essential commodities such as seeds and fertilizers, food stuffs, oil, cotton, jute, etc., has been established as an important constituent of the strategy for implementation of the Law and achievement of its objects and to serve as a safety net for the general public, especially, the poor who are sustainably at risk.

Keeping in view the above, Fair Price Shops (FPS), petroleum outlets and domestic gas (LPG) agencies were established post independence, at present, with a network of around 5.28 Lakh units, perhaps the largest retail system of its type in the world, for procurement/ production, supply and distribution, etc, of essential commodities which has been retained as deliberate social policy of the nation.

Since the control over the network of essential commodities production, supply and distribution, etc., is exercised under the joint responsibility of the Central and State/ UT Governments, the Central Government has undertaken responsibility for operations such as overall procurement, storage, transportation and bulk allocation of essential commodities issuing guideline/s from time to time to the States/ UTs regarding the operational details of supply and distribution.
The operational responsibilities including allocation within the State, identification of families below poverty line, issue of ration cards, supervision and monitoring the functioning of fair price shops rest with the State Governments/UT administrations.

The Food and Civil Supplies Departments of the State/UT administrations are mainly entrusted with the task of monitoring distribution activities which differ from State to State, along with, the prosecution for disobedience of orders and illegal practices such as hoarding, adulteration, blackmarketing, etc.

a) **Issue of Control Orders under Essential Commodities Act**

To control the production, supply and distribution, etc., of the essential commodities orders are issued and implemented through a three tier mechanism, along with, issue of overriding Central control orders by the Central Government at present given in the figure below.

*Figure-1*
The control orders are issued primarily imposing limits for the procurement, manufacture, storage and sale of the essential commodities upto a certain quantity through licenced dealers and retailers.

The sale/ distribution of the commodities are made to categorized card holders identified and issued by the respective governments, as well as, non card holders.

*b) Supply and distribution channels of Petroleum Commodities*

The control over the production/ import, supply and distribution of petroleum products such as high speed diesel, kerosene oil, lubricants, etc, is done at present as per the figure given below.

**Figure-2**

![Diagram showing supply and distribution channels of Petroleum Commodities]
c) **Procurement & Distribution Channels for Food Stuffs**

The existing mechanism for the control over the production, supply and distribution of foodstuffs is taken care of through the setup represented below.

**Figure- 3**

![Diagram showing procurement and distribution channels for foodstuffs]

[^ Fair price shop; ^Below poverty line; **Above poverty line; *** non card holder or having above quota requirement].

d) **Production & Distribution of Seeds and fertilizers**

Present supply and distribution mechanism for smooth flow of commodities (seeds and fertilizers) essential for the production of foodstuffs is represented below.
In addition, Parliament has also enacted the "Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 \(^{24}\), to supplement and suffice the Essential Commodities Act, 1955, to be invoked by the State Governments for the purpose of taking preventive measures against essential commodity related offences which constitute the 'Law' in this regard, to ensure elimination of hurdles in smooth flow of essential commodities to the

\(^{24}\) Act 7 of 1980
general public and to protect the consumers from exploitation by unscrupulous traders by means of unfair trade practices and illegal activities by initiating precautionary measures.

The Consumer Protection Act, 1986, is also an important statute containing provisions for redressal of harassed beneficiary/ consumers which can be taken shelter of to get compensation or to remedy the wrong done by traders, in case the existing respective departmental complaint redressal system is indifferent or is found insufficient for the cause. It also provides for punishment and penalty to delinquent illegal traders adopting unfair trade practice or means in essential commodities.

1.3. **Major Issues/ Challenges**

The Law relating to essential commodities in India aims at ensuring **equitable distribution and the availability of the essential commodities at fair price**, in the interest of the general public. The following objectives have been envisioned keeping abreast the concept of public welfare in India in order;

(i) To attempt socialization in the matter of supply and distribution of essential commodities through their equitable distribution.

(ii) To put an indirect check on the open market prices of various commodities essential to the society; and

(iii) To provide essential commodities to vulnerable sections of the society

*at reasonable/subsidized prices.*
However, it is a reflection of the utter insensitivity of our bureaucracy that while the common man and poor people are reeling under sky-rocketing prices of food and other essential commodities due to improper implementation of the Law in this regard, subsidy provided in the Union budget to meet the difference between the economic cost of commodities and their sales realization at Central Issue Prices for TPDS (Targeted Public Distribution System) and other welfare schemes is siphoned off.

In addition, the Central Government also procures food grains and other commodities for meeting the requirements of buffer stock and a part of the subsidy also goes towards meeting the carrying cost of buffer stock which is allowed to rot in the godowns due to improper distribution policy as well as effective hoarding by traders to facilitate the traders to sell at higher prices in the wake of demand.

The subsidy is provided to Food Corporation of India (FCI), Oil companies and fertilizer companies etc. under TPDS and other welfare schemes for maintaining the equitable distribution and fair price. The quantum of subsidy depends on the level of production and procurement of food grains and other commodities and offtake through welfare schemes. The budgetary estimate for essential commodity subsidy during 2008-09 was about Rs. 74,000 Crores.

Those responsible for the maladministration are making a mockery of the efforts being made by the Government in the absence of proper accountability, effective prosecution and more stringent penalty for the guilty making life difficult for the poor.

The following major issues which have cropped up are of grave concern in implementation of essential commodities Law:
a) **Improper Implementation- Hurdles to Progress and Welfare**

Former Prime Minister Rajiv Gandhi had once asserted that of every rupee that the government releases for the country's progress and welfare, only Rs.0.06 go to the poor. One can easily surmise by that assertion how deep the malaise of corruption has entered into the system of Indian administration, and the lust of easy money has spoiled our bureaucracy. The comment made by late Rajiv Gandhi is applicable to the administration even to this day.

It won't be an exaggeration to say that in fact, the situation has gone worse. That is why the schism between the rich and the poor continues to widen. The life of the poor has become so difficult that let alone other necessary items and commodities he finds it difficult even to get a square meal a day. In such a scenario, if our bureaucracy sacrifices the amount earmarked by the government for providing food grain and other essential commodities at subsidized rates to the poor at the altar of the corruption, it can only be termed utter insensitivity and nothing else;

One of the main problems with this system is the inefficiency in the making and issue of control orders, notifications and circulars for targeting of beneficiaries and the resulting leakage of subsidies. Several opportunities to manipulate the system exist with widespread collusion across the supply chain and Public Distribution System (PDS). The Planning Commission had the following to say on the public distribution system in its 2005 report:

“For every Rs. 4 spent on the PDS, only Rs. 1 reaches the poor”

“57% of the PDS food grain does not reach the intended people”.

\[\text{15}\]
b) **Adulteration - Scale and Quality of Issue**

The scale of issue and the quality of food grains and other commodities delivered to the beneficiary is rarely in conformity with the policy. Many fair price shop (FPS) are open only for a few days in a month and beneficiaries who do not visit the FPS on these days are denied their right. The FPS also gives multiple excuses to both charge higher rates and deliver reduced quantity of food grains.

There are also significant differences in the manner in which the Centre and States arrive at the number of below poverty line (BPL) families. This mismatch usually means lower allotment for each family as states arrive at higher numbers of BPL families. As this problem may not go away even after reduction of duplicates, a standard way of doing this must be arrived at for each state to resolve this issue.

c) **Bribery and Adverse Impact of Corruption**

The Wadhwa Committee\(^{25}\) has revealed in its report that the huge subsidy of Rs. 280 billion that the government provides to the PDS goes into the pockets of corrupt government officers, transporters, and mill owners.

Describing the PDS as the most corrupt department of the country it has further disclosed that wheat meant for distribution to poor people directly reaches flour mills from warehouses. This implies that the wheat supply, which could give succor to a poor and provide a square meal to a hungry family, is directly filing up the coffers of corrupt officers, transporters, and the mill owners. This way, the poor are being deprived of their dues.

Although, Justice Wadhwa Committee\textsuperscript{26} and other reports has said nothing on the involvement of politicians in the matter, going by the prevailing situation in the country, the threads of every corrupt practice are linked to politicians. In this case also, it can be safely surmised from the response of the Ministries to the various directions of the Hon'ble Apex Court\textsuperscript{27} in 2011 relating to food distribution, that if the entire FPS system and other distribution mechanism for essential commodities outside the FPS system were thoroughly investigated, involvement of some leaders would certainly get revealed and they can be assigned responsibility can be punished with stringently.

The corruption in the supply process is a fast-spreading malignancy which needs to be struck at the very roots of this gangrene. Yet, one wonders how no dedicated effort has yet been initiated to take any action against bureaucracy, officials, and politicians who are merged up to their ears in corruption.

Undoubtedly, the judiciary has initiated commendable measure to reform society, and to protect the rights of the poor but clearly, judiciary also has its own limitations. It is for the government to initiate measures to set things right in corrupt departments like the PDS or any other such department;

d) \textit{Defective identification of beneficiaries- Below Poverty Line Card}

The targeted public distribution system (TPDS) through FPS currently suffers from a number of issues that make it difficult for it to meet its objective of ensuring that the allotted quota of specified articles reaches the intended underprivileged/needy segments of society. A large number of families living below the poverty line have not been enrolled and therefore do not have access to ration cards.

\textsuperscript{26} Ibid
\textsuperscript{27} \textit{PUCL v. Union of India}, Supreme Court Order Dt. 12.08.10 & 31.08.10
A number of bogus ration cards which do not correspond to real families, exist in the BPL category. Food drawn on the basis of these bogus cards is a significant leakage from the system, as it does not reach the intended beneficiaries. Additionally, these extra cards inflate the number of BPL cards in circulation and further reduce the amount of commodities available to every rightful beneficiary family.

A number of instances where benefits are being availed in the names of rightfully entitled families without their knowledge. This shadow ownership is possible due to inefficiencies in ration card issuance and distribution. Errors in categorization of families also lead to BPL families getting above poverty line (APL) cards and vice versa.

A significant portion of benefits provided to the APL category under the TPDS, are not availed by the intended beneficiaries and are instead diverted out of the system.

In summary, targeting is not serving its real purpose, as the beneficiaries do not get commodities in accordance with their entitlements.

Justice P.D. Wadhwa\textsuperscript{28} in his report has disclosed also that "every PDS depot holder pays Rs. 1,200 to the police inspector every month, and the circle inspector of the Department of Civil Supplies asks for Rs.1, 000 as bribe every month. The committee has given indications of bribes being paid at every step. Even to get the Below Poverty Line (BPL) card issued, the gram panchayat (local self-government) secretary takes a bribe of Rs. 500"\textsuperscript{29}.

This implies that one has to pay through his nose to get oneself recognized as a poor person. When corruption has reached such a level, it would be foolish to expect that the poor would ever get his right, or that plans launched

\textsuperscript{28} JUSTICE P.D. WADHWA Committee on Corruption in PDS, Report 2010.
\textsuperscript{29} Ibid
by the government for welfare of the poor would ever reach the targeted populace.

Hence, there is an urgent need for proper and dedicated implementation of the law, circulars and notifications as well as issue of unambiguous control orders for deriving effective utility to guarantee smooth flow of supplies of the declared essential commodities at fair price to the different regions and various beneficiaries alongwith proper checks and safeguards;

e) **Lack of effective prosecution and more stringent penalty**

Urgent need for dedicated and effective prosecution in offences related to essential commodities is felt. The rate of convictions achieved by the prosecution is abysmally low. The charge of frivolous prosecutions is plenty. As observed by the Hon'ble High Court of Calcutta that, "a mere suspicion of contravention is, however no contravention, and the Magistrate has no right to order forfeiture on such ground". To tackle delayed trial and disposal of cases a set of exclusive judicial infrastructure in the States is required. Unless Special Fast Track Courts are established to try cases, including, offences under the Prevention of Corruption Act, 1988, in essential commodity related offences relief seems far.

Lack of more stringent penalty the imposition of which is, undoubtedly, crucial to eradicate evils like hoarding, adulteration and the rampant corruption in the supply and distribution of the commodities, and also, in the production and import of the essential commodities like fertilizers and petroleum products which have put up a serious challenge to the executive to reform for ensuring efficient and equitable distribution of all essential commodities at fair price;

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30 *Naimuddin v. State* AIR 1952 Cal. 144
f) *Indifferent Vigilance and Grievance Redressal Mechanisms*

There are numerous entities like Vigilance Committee, Anti-Hoarding Cells, complaints and grievance redressal mechanisms constituted to ensure smooth functioning of the distribution system. Their impact is virtually non-existent on the ground level and as a result, malpractices are abound to the great discomfiture of the common man.

g) *Wastage and siphoning of subsidy*

A peculiar paradoxical situation has been revealed from the CAG report of 2011 that the Government of India since 2000-01, has exported food grains violating the norms recommended by Group of Ministers. In this process the Government of India further allowed many sops, which was mis-utilised by the private traders who made undue high profits. Taking into account the different, subsidies provided directly or indirectly the actual price paid by the exporter for food grains turns out to be below BPL rate. This needs to be addressed by totally banning exports of foodstuffs for the next five years to meet the alarming situation;

h) *System Transparency and Accountability*

The most serious flaw plaguing the system at present is the lack of transparency and accountability in its functioning. The system lacks transparency and accountability at all levels making monitoring the system extremely difficult.

Apart from the challenges described, transportation of food grains and appointment of dealers and allotment of Fair Price Shops, gas agencies, petrol/diesel outlets, etc, have also become difficult issues. Viability of the FPS is
already a major concern and this would get amplified once public distribution system leakages are brought under control.

1.4. **Object of the study**

The object of this study is to critically analyse the history of the defects of the Law and advance comprehensive remedial measures to secure the aim of the Law for which it is enacted, i.e., *equitable distribution and availability at fair price of essential commodities*[^31] and also, to ensure that the budgetary subsidies reach and benefit the general public and more stringent penalties are imposed on the violators of the Law.

1.5. **Scope and limitations of the study**

The scope of this work is limited to the critical study of Law relating to production, supply and distribution of Essential Commodities in India, with special reference to the State of Odisha.

1.6. **Significance of the study**

The rapidly changing socio-economic conditions in India may be some justification for the discretionary powers conferred on the executive through the Law for the control over the essential commodities, but, there is need for providing adequate checks and safeguards to prevent abuse of power and Law, by imposing more stringent penal liability as serious allegations of adulteration, blackmarketing, corruption, bribery, etc., resulting in "*siphoning off of public funds...*"[^32] and also, "*instead of supply to needy consumers and the intended"

[^32]: U.P. Roller Flour Mills Association & Ors. v. Govt. of India & Ors. AIR 2008 SC 130
beneficiaries they are being diverted to the open market.."33, as remarked in its observations by the Supreme Court.

The Law for the control over the production, supply and distribution, etc., of essential commodities being an important law to mainly ensure the smooth flow of the essential commodities at fair and reasonable prices constituting the set of statutes namely the Essential Commodities Act, 1955 (as amended), the Essential Commodities (Special Provisions) Act, 1981 and The Prevention of Black marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (as amended) completely fails in its objective of smooth flow of supplies at fair price and control of artificially created shortages, checking wastage, hoardings, adulteration, black marketing and other illegal activities resulting in spiraling and acute rise in prices of essential commodities, in the process, making them either unavailable or out of reach for the common and poorest sections of the society, hence, making this study significant for advancing suggestions and remedial measures to reduce, if not, completely eradicate the problems.

Also, this study is significant, as such, to critically evaluate to eliminate defects in the Law and its implementation to strike a proper balance between administrative convenience, individual freedom, commodity control and exercise of discretion in imposition of strict penal liability for offences in essential commodity related activities in order to attain the legislative object of securing the interests of the general public in the control over the production, supply and distribution, etc. of essential commodities as well as to minimize grievances and related litigation.

33 Ibid
1.7. **Scheme of the study**

The work has been distributed in the following manner consisting of nine principal chapters for convenience.

**Chapter 1 - INTRODUCTION to the Law** contains the Constitutional mandate relating to the Law, existing mechanism of production, supply and distribution of essential commodities and the major issues/ challenges and criticism faced, along with the objective, significance, scope and scheme of the study.

**Chapter 2 - HYPOTHESIS & METHODOLOGY** contains the hypothesis drawn and the methodology adopted for study in the present work;

**Chapter 3 - DEFINITION, NATURE, MEANING AND SCOPE:** contains a brief definition of the commodities and description of the nature of essential commodities and the meaning and scope of the law on essential commodities relating to its Production, Supply and Distribution, etc.

**Chapter 4 - LEGISLATIVE BACKGROUND:** contains the international, national and constitutional background under which the prevalent present act was envisaged and legislated along with the objectives and vision of the legislature behind it;

**Chapter 5 - ANALYSIS OF THE RELEVANT STATUTORY PROVISIONS IN INDIA:** contains the analysis of the crucial operational sections and other provisions relating to the essential commodities Central Acts and the Orissa amendments, the various provisions and licensing Orders, unfair trade practices along with, the system of delegation adopted in implementing the Law relating to Essential Commodities.
Chapter 6 - PROSECUTION AND PENALTIES: contains a complete analysis of the procedure followed, penalties imposed and the mode of prosecution of the defaulters, blackmarketeers, etc;

Chapter 7 - EMPIRICAL STUDY OF THE STAKE HOLDERS: covers the discussion and interview of the connected public authorities, dealers, license holders, general public and its analysis;

Chapter 8 - ANALYSIS OF JUDICIAL TRENDS: contains a complete analysis of the updated judicial trend on the subject of work and latest case laws on the subject.

Chapter 9 - CONCLUSIONS WITH SUGGESTIONS: contains a descriptive conclusion with the findings thereof, a test of validity of the hypothesis and the suggestions advanced both legal and administrative remedial measures.